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8 IN THE UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

10 RAYMOND BERRY,

11 Plaintiff,

12 vs.

13 TIMBERLINE MOULDING, et al. and DOES  
14 1 THROUGH 10, Inclusive,

15 Defendants.  
16  
17  
18

Case No.: 08 CV 0352 BEN  
(CAB)

**DECLARATION OF RAYMOND  
BERRY IN SUPPORT OF  
PLAINTIFF'S OPPOSITION TO  
MOTION TO DISMISS AND  
REQUEST FOR SANCTIONS  
AGAINST DEFENDANT SUSAN  
WAIT**

Date: June 2, 2008

Time: 10:30 a.m.

Judge: The Honorable Roger  
T. Benitez

19  
20 I, RAYMOND BERRY, declare:

21 1. I am the Plaintiff in this action. I have personal  
22 knowledge of the following facts and, if called as a witness,  
23 could and would testify to the following:

24 2. I am a quadriplegic and have limited use of my hands.  
25 I use a wheelchair for mobility. I visited Timberline Moulding  
26 on two occasions in June or July of 2007 and on October 2, 2007.  
27 On my first visit, I went to Timberline Moulding to obtain  
28 information about the products available and the pricing of the



1 in my home. It was a small job and I wanted to find an installer  
2 before I actually purchased the material.

3 3. When I first arrived at the property, I had difficulty  
4 parking because there was no accessible parking space and there  
5 were pylons and other cars parked in the lot, thus limiting the  
6 amount of space available for me to park my van, which has a side  
7 lift. I had to maneuver my van so that the lift would not hit one  
8 of the pylons as my ramp deployed.

9 4. I then went through the entrance to the business and  
10 went to the customer service counter. I have reviewed Exhibits  
11 "A" and "B" to the Defendants' Motion to Dismiss. Neither the  
12 pull-out counter, nor the lowered counter depicted in those  
13 photographs were at the customer service counter during my first  
14 visit to Timberline Moulding.

15 5. After about 3 to 5 minutes, the staff seemed to notice  
16 me and a man came over to assist me. I told him I was looking  
17 for stair railings. He brought me some written information about  
18 the styles and materials available and the pricing. The customer  
19 service counter was too high and I was not able to read the  
20 papers on the existing counter so the man set the papers on my  
21 lap. I have difficulty holding papers due to my disability. It  
22 would have been much easier for me to review the paperwork if I  
23 could have placed the papers on a flat lowered counter, side by  
24 side. When papers are on my lap, they are not flat and are  
25 difficult to maneuver if I need to change the viewing angle.  
26 Attached hereto as Exhibit "5" are true and correct copies of the  
27 documents I received during my first visit to Timberline  
28 Moulding.



1       6. At no time did the man who assisted me ever show me an  
2 accessible counter or offer me an accessible counter to use.

3       7. After some discussion about the products an my  
4 anticipated project, the man gave me the business cards and  
5 telephone numbers of some installers. I was at the business for  
6 approximately 20 minutes on my first visit.

7       8. As I was leaving after that first visit, the Timberline  
8 employee walked with me to my van and I told him that they needed  
9 an accessible parking space. He told me that a friend of his in  
10 a wheelchair had said the same thing before. He said he had told  
11 the owner about the lack of an accessible parking space but that  
12 "the owner doesn't always listen to my suggestions." I told him  
13 that he should "tell the owner again because this is a pretty  
14 serious thing." He indicated that he would speak again with the  
15 owner.

16       9. I returned to Timberline Moulding on October 2, 2007 to  
17 see if they had made the modifications to the parking lot I had  
18 requested during my first visit. I still had not had the hand  
19 railing installed. I had called the installers they had referred  
20 me to, but only one installer responded to my calls. He never  
21 appeared at our scheduled appointment. I also returned to  
22 Timberline because I wanted to check out additional products and  
23 to see if they had any other referrals.

24       10. When I found that they had still not installed an  
25 accessible parking space, I was rather perturbed. Not only had  
26 they not responded to the earlier complaint from the other person  
27 in a wheelchair, but they did not respond to my specific request  
28 for a parking space. I concluded that I would need to file a



1 lawsuit to compel compliance with accessibility laws.

2 11. At the time that I filed my lawsuit, I still wanted to  
3 return to Timberline but I was deterred because of the absence of  
4 an accessible parking space.

5 12. I have reviewed Exhibit "1" to Mr. Mohamed's  
6 Declaration and those photographs accurately depict the condition  
7 of the parking lot with respect to the absence of an accessible  
8 parking space during both of my visits to the property. I also  
9 reviewed Defendants' Exhibits "H" and "I". The parking spaces  
10 depicted in those photographs did not exist on either of my  
11 visits to Timberline Moulding.

12 I declare under penalty of perjury under the laws of the  
13 State of California and the United States of America that the  
14 foregoing is true and correct.

15 Executed this 16<sup>th</sup> day of May, 2008 at San Diego,  
16 California.





17   
18 RAYMOND BERRY  
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# HANDRAIL

Lengths available 6' to 16'  
Flex min. 6' - 12'

## DOUGLAS FIR HANDRAIL

PROFILE	PATTERN NO.	SIZE	DESCRIPTION	PCS. PER BDL.	PRICES PER LINEAL FT.	
					R/L	SPEC.
	925	1-1/2 x 2-3/8	Doug. Fir Hand Rail	4	1.78	2.16
	925P	1-1/2 x 2-3/8	Standard Hand Rail with 1/4 x 1-1/4 Plow	4	2.71	3.06
	926	1-1/2 x 1-7/8	Doug. Fir Sm Standard Hand Rail	4	1.48	1.86
	926P	1-1/2 x 1-7/8	Sm Standard Hand Rail with 1/4 x 1-1/4 Plow	4	2.41	2.76
	927	1-1/2 x 2-1/4	Doug. Fir Oval Hand Rail	4	1.78	2.16
	927P	1-1/2 x 2-1/4	Oval Hand Rail with 1/4 x 1-1/8 Plow	4	2.71	3.06
	928	1-1/2 x 2-3/8	Doug. Fir "B" or Mushroom	4	1.78	2.16
	928P	1-1/2 x 2-3/8	"B" Hand Rail with 1/4 x 1-1/4 Plow	4	2.71	3.06
	932	1-1/2 x 1-7/8	Doug. Fir Small 6010	4	1.48	1.86
	932P	1-1/2 x 1-7/8	Small 6010 with 1/4 x 1-1/8 Plow	4	1.58	2.76
Plowing	*SUP	Plowing	Set up for plowing less than 100'			

## OAK HANDRAIL, SHOE RAIL & FILLET

PROFILE	PATTERN NO.	SIZE	DESCRIPTION	PCS. PER BDL.	PRICES PER LINEAL FT.	
					R/L	SPEC.
	925-O	1-1/2 x 2-3/8	Oak Standard Handrail	4	3.94	4.50
	925-OP	1-1/2 x 2-3/8	Oak Standard Handrail with 1/4 x 1-1/4 Plow	4	5.17	5.70
	928-O	1-1/2 x 2-3/8	Oak "B" or Mushroom	4	4.68	5.52
	928-OP	1-1/2 x 2-3/8	"B" Hand Rail with 1/4 x 1-1/4 Plow	4	5.17	5.70
	950-O	3/4 x 2-1/2	Oak Shoe Rail with 1/4 x 1-1/4 Plow	6	1.67	2.08
	951-O	3/8 x 1-1/4	Oak Fillet	10	.74	.94
Plowing	*SUP	Plowing	Set up for plowing less than 100'		50.00	

All Flex made to order. \*No Mold currently available. Subject to Mold charge. Please call for quote.

EXHIBIT

5/5



# HANDRAIL

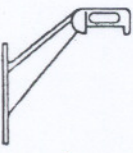
## POPLAR HANDRAIL

Mixed Bundles. Lengths available  
6' to 16' Flex min. 6' - 12'

PROFILE	PATTERN NO.	SIZE	DESCRIPTION	PCS. PER BDL.	PRICES PER LINEAL FT.	
					R/L	SPEC.
	931BR	2-1/4 x 2-3/8	6010 Bender Rail (7 Pcs.)	4	9.19	11.64
	931P	2-1/4 x 2-3/8	Poplar 6010 Handrail	4	4.31	5.76
	931PP	2-1/4 x 2-3/8	6010 Handrail with 1/4 x 1-1/4 Plow	4	5.24	6.60
	932P	1-1/2 x 1-7/8	Poplar Small 6010 Handrail	4	1.58	2.00
	932PP	1-1/2 x 1-7/8	Sm. 6010 Handrail with 1/4 x 1-1/8 Plow	4	1.71	2.13
	933P	1-3/4 x 2-5/8	Poplar Majestic Handrail	4	2.53	3.21
	933PP	1-3/4 x 2-5/8	Majestic Handrail with 1/4 x 1-1/4 Plow	4	3.45	4.12
Plowing	*SUP	Plowing	Set up for plowing less than 100'			
	950P	3/4 x 2-1/2	Poplar Shoe Rail with 1/4 x 1-1/4" Plow	10	.60	1.52
	951P	3/8 x 1-1/4	Poplar Fillet	10	.51	.76

## HANDRAIL BRACKETS

COST PER BRACKET

PROFILE	PATTERN NO.	SIZE	DESCRIPTION	PCS. PER BDL.	PRICES PER LINEAL FT.	
					R/L	SPEC.
	BHB	4235 x 3	Brass Plated	-	2.20	
	ABHB	4235 x 3AB	Antique Brass	-	2.20	
	CHB	4235 x 2C	Chrome Plated	-	2.20	

All Flex made to order. \*No Mold currently available. Subject to Mold charge. Please call for quote.

EXHIBIT 5/6





**TIMBERLINE  
MOULDING**

**TIMBERLINE MOULDING**

Manufacturer of Fine Wood Mouldings & Doors  
1315 Armorlite Drive, San Marcos, Ca. 92069

Office: (760) 744-9259

OPEN 7:00 AM TO 4:30 PM M-F

Fax: (760) 744-7330

SAT. 8 TO 2 CLOSED SUNDAY

[WWW.TIMBERLINEMOULDING.COM](http://WWW.TIMBERLINEMOULDING.COM)

*Pacific stairs products*

*(760) 471-4726*

*EXHIBIT 5/7*